

**Hearing date: December 16, 2015 at 10:00 a.m. (Prevailing Eastern Time)**  
**Response Deadline: December 9, 2015 at 4:00 p.m. (Prevailing Eastern Time)**

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Counsel for Patricia J. McNerney  
Also on Behalf of Susan M. Gray, *Pro Se*

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF OHIO**  
**EASTERN DIVISION**

In re:

Residential Capital, LLC, et al.,  
Debtor

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Case No. 12-12020 (MG)

Judge Martin Glenn

**Notice of Motion to Strike Declaration of**  
**David Wallace**

**Please take notice** that the undersigned has filed the attached Motion to Strike Declaration of David Wallace.

**Please take further notice** that a hearing on the Motions to Strike will take place on **December 16, 2015 at 10:00 a.m. (Prevailing Eastern Time)** before the Honorable Martin Glenn, at the United States Bankruptcy Court for the Southern District of New York, Alexander

Hamilton Custom House, One Bowling Green, New York, New York 1004-1408, Room 501 (the  
“**Bankruptcy Court**”)

**Please take further notice** that responses, if any, to the Motions to Strike must be made in writing, conform to the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, and the Notice, Case Management, and Administrative Procedures approved by the Bankruptcy Court [Docket no 141], be filed electronically by registered users of the Bankruptcy court’s electronic case filing system, and be served, so as to be received no later than **December 9, 2015 at 4:00 p.m. (Prevailing Eastern Time)**, upon (a) the Chambers of the Honorable Martin Glenn, United States Bankruptcy court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004-1408; (b)counsel to Patricia J. McNerney, Susan M. Gray, Attorney at Law, 22255 Center Ridge Road; Suite 210; Rocky River, OH 44116; (c) the Office of the United States Trustee for the Southern District of new York, U.S. Federal Office Building, 201 Varick Street, Suite 1006, New York, NY 10014 (Attention: Linda A. Riffkin and Brian s. Masumoto); (d)The ResCap Liquidating Trust, Quest Turnaround Advisors, 800 Westchester Avenue, Suite S-520, Rye Brook, NY 10573 (Attention Jeffrey Brodsky); (e) The ResCap Borrower Claims Trust, Polsinelli PC, 900 Third Avenue, 21<sup>st</sup> floor, New York, NY 10022 (Attention Daniel J. Flanigan); (f)counsel to the ResCap Borrower Claims Trust, Morrison & Foerster LLP, 250 West 55<sup>th</sup> Street, New York, NY 10019 (Attention: Norman S. Rosenbaum, Jordan A. Wishnew and Jessica J. Arett)

**Please take further notice** that if you do not timely file and serve a written response to the relief requested in the Motion, the Bankruptcy Court may deem any opposition waived, treat

the Motion as conceded, and enter an order granting the relief requested in the Motion without further notice or hearing.

Dated: November 16, 2015  
Rocky River, Ohio

Respectfully Submitted,

/s/ Susan M. Gray

Susan M. Gray

Ohio Sup. Court Number (0062356)

Attorney for Ms. McNerney

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Case No. 12-12020 (MG)

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**Motion to Strike Declaration of David  
Wallace**

**Motion to Strike the Declaration of David Wallace**

Declarations to the Court, under penalties of perjury, like affidavits, must be made based upon personal knowledge, not hearsay. Fed.R.Civ.P. 56(c)(4) (made applicable to bankruptcy proceedings through Fed.R.Bankr.P. 7056. Personal knowledge is based upon those facts or

information to which a person can testify. *See Argo v. Blue Cross & Blue Shield of Kan., Inc.*, 452 F.3d 1193, 1200 (10th Cir. 2006).

The declaration of Mr. Wallace, is based, in part, on testimony received at trial through deposition. Thus, his declaration is not based upon personal knowledge. Ms. McNerney does not object to the admissibility of and reliance upon the transcripts, but they cannot form the basis of Mr. Wallace's personal knowledge.

Based upon the foregoing, these statements are not based upon his personal knowledge and cannot form the basis of a proper declaration. They must therefore be stricken.

Dated: November 16, 2015  
Rocky River, Ohio

Respectfully Submitted,

/s/ Susan M. Gray  
Susan M. Gray  
Ohio Sup. Court Number (0062356)  
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